

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10528-RCL

DENISE M. BARRY and JANE
B. GREEN,
Plaintiffs,

v.

ROBERT J. MORAN, PAUL A.
CHRISTIAN, WILLIAM
KESSLER, WILLIAM
HITCHCOCK, CITY OF BOSTON
FIRE DEPARTMENT, and JOHN
and/or JANE DOES 1-50.
Defendants.

**ANSWER OF THE DEFENDANT WILLIAM HITCHCOCK TO PLAINTIFF'S FIRST
AMENDED COMPLAINT, WITH AFFIRMATIVE DEFENSES AND JURY DEMAND.**

NOW COMES William Hitchcock, the Defendant in the above-entitled action, and hereby answers the First Amended Complaint of the Plaintiffs, as follows:

INTRODUCTION

Paragraph One of the Plaintiffs' First Amended Complaint contains a preliminary statement summarizing the Plaintiffs' allegations as contained within the numbered paragraphs infra, and as such does not require a response. To the extent that the Plaintiffs' Introduction states any claim against Defendant William Hitchcock, it is denied.

PARTIES

1. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph One of the Plaintiff's First Amended Complaint.
2. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Two of the Plaintiff's First Amended Complaint.
3. Answering further, Defendant William Hitchcock denies that Defendant Moran is employed with the title "Personnel Manager." Answering further, Defendant William Hitchcock admits the remaining allegations contained in Paragraph Three of the Plaintiff's First Amended Complaint.
4. The final sentence of Paragraph Four of the Plaintiff's First Amended Complaint contains a preliminary explanatory statement concerning the allegations made against Defendant Christian, and as such does not require a response. Answering further, Defendant William Hitchcock admits the remaining allegations contained in Paragraph Four of the Plaintiff's First Amended Complaint.

5. The final sentence of Paragraph Five of the Plaintiff's First Amended Complaint contains a preliminary explanatory statement concerning the allegations made against Defendant Kessler, and as such does not require a response. Answering further, Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Five of the Plaintiff's First Amended Complaint.
6. The final sentence of Paragraph Six of the Plaintiff's First Amended Complaint contains an preliminary explanatory statement concerning the allegations made against Defendant Hitchcock, and as such does not require a response. Answering further, Defendant William Hitchcock denies that Defendant Hitchcock is employed with the title "Director of Operations." Answering further, Defendant Hitchcock admits the remaining allegations contained in Paragraph Six of the Plaintiff's First Amended Complaint.
7. Defendant William Hitchcock admits the allegations contained in Paragraph Seven of the Plaintiff's First Amended Complaint.
8. Paragraph Eight of the Plaintiff's First Amended Complaint is an explanatory introductory statement describing Plaintiffs'

intention to amend the Complaint to name further defendants,
and as such does not require an answer.

JURISDICTION

9. Paragraph Nine of Plaintiffs' First Amended Complaint contains a statement of jurisdiction, and as such does not require a response. To the extent that the Plaintiffs' statement of jurisdiction states any claim against Defendant William Hitchcock, it is denied.
10. Paragraph Ten of Plaintiffs' First Amended Complaint contains a further statement of jurisdiction, and as such does not require a response. To the extent that the Plaintiffs' statement of jurisdiction states any claim against Defendant William Hitchcock, it is denied.

FACTS COMMON TO ALL COUNTS

11. Defendant William Hitchcock admits the allegations contained in Paragraph Eleven of the Plaintiff's First Amended Complaint.
12. Defendant William Hitchcock denies the allegations contained in Paragraph Twelve of the Plaintiff's First Amended Complaint.

13. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirteen of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.
14. Defendant William Hitchcock denies the final sentence of Paragraph Fourteen of the Plaintiff's First Amended Complaint. Answering further, Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Fourteen of the Plaintiff's First Amended Complaint that another unspecified employee received an upgrade as alleged, and therefore neither admits nor denies said allegations. Answering further, Defendant William Hitchcock admits the remaining allegations contained in Paragraph Fourteen of the Plaintiff's First Amended Complaint.
15. Defendant William Hitchcock admits that Defendant Moran was hired on about July, 2001. Answering further, Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Fifteen of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

16. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Sixteen of the Plaintiff's First Amended Complaint.
17. Defendant William Hitchcock admits the allegations contained in Paragraph Seventeen of the Plaintiff's First Amended Complaint.
18. Defendant William Hitchcock admits that Plaintiff Barry applied for the position described and was interviewed and admits that Ms. Urso was hired. Answering further, Defendant William Hitchcock denies that Ms. Urso was unqualified and that either Defendant Moran or Defendant Christian made the hiring decision for the position. Answering further, Defendant Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph Eighteen of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.
19. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Nineteen of the Plaintiff's First Amended Complaint.

20. Defendant William Hitchcock admits that he requested step increases for the Plaintiff Barry and that he is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph Twenty of the Plaintiff's First Amended Complaint.
21. Defendant William Hitchcock denies the allegations contained in Paragraph Twenty-One of the Plaintiff's First Amended Complaint.
22. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Twenty-Two of the Plaintiff's First Amended Complaint.
23. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Twenty-Two of the Plaintiff's First Amended Complaint.
24. Defendant William Hitchcock denies the allegations contained in Paragraph Twenty-Four of the Plaintiff's First Amended Complaint.
25. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of

the allegations contained in Paragraph Twenty-Five of the Plaintiff's First Amended Complaint.

26. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Twenty-Six of the Plaintiff's First Amended Complaint.

27. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Twenty-Seven of the Plaintiff's First Amended Complaint.

28. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Twenty-Eight of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

29. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Twenty-Nine of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

30. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

31. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-One of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

32. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Two of the Plaintiff's First Amended Complaint.

33. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Three of the Plaintiff's First Amended Complaint.

34. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Four of the

Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

35. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Five of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

36. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Six of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

37. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Seven of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

38. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Eight of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

39. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Thirty-Nine of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.
40. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.
41. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-One of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.
42. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-Two of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.
43. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of

the allegations contained in Paragraph Forty-Three of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

44. Defendant William Hitchcock admits the allegations to the extent that Chief Granara informed Defendant Hitchcock of the complaint. As to the remaining allegations, Defendant Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-Four of the Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

45. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-Five of the Plaintiff's First Amended Complaint.

46. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-Six of the Plaintiff's First Amended Complaint.

47. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of

the allegations contained in Paragraph Forty-Seven of the Plaintiff's First Amended Complaint.

48. Defendant Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-Eight of the Plaintiff's First Amended Complaint.

49. Defendant Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Forty-Nine of the Plaintiff's First Amended Complaint.

50. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Fifty of the Plaintiff's First Amended Complaint.

51. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Fifty-One of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

52. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of

the remaining allegations contained in Paragraph Fifty-Two of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

53. Defendant William Hitchcock denies the allegations contained in Paragraph Fifty-Three of Plaintiff's First Amended Complaint.

54. Defendant William Hitchcock denies the allegations contained in Paragraph Fifty-Four of Plaintiff's First Amended Complaint.

55. Defendant William Hitchcock admits that Plaintiff Barry made a complaint but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph Fifty-Five of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

56. Defendant William Hitchcock denies the allegations contained in Paragraph Fifty-Six of Plaintiff's First Amended Complaint.

57. Defendant William Hitchcock denies the allegations contained in Paragraph Fifty-Seven of Plaintiff's First Amended Complaint.

58.Paragraph Fifty-Eight of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Fifty-Eight of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

59.Paragraph Fifty-Nine of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Fifty-Nine of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

60.Defendant William Hitchcock admits the allegations contained in Paragraph Sixty of Plaintiff's First Amended Complaint.

61.Defendant William Hitchcock states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Sixty-One of Plaintiff's First Amended Complaint that victims are advised to seek assistance through Plaintiff Green. Answering further, Defendant William Hitchcock admits the remaining allegations contained in Paragraph Sixty-One of Plaintiff's First Amended Complaint.

62. Defendant William Hitchcock states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Sixty-Two of Plaintiff's First Amended Complaint, and therefore and therefore neither admits nor denies said allegations.

63. Defendant William Hitchcock denies the allegations contained in Paragraph Sixty-Three of Plaintiff's First Amended Complaint.

64. Defendant William Hitchcock admits that Plaintiff Green was based at 115 Southhampton Street on the dates indicated, but denies the remaining allegations contained in Paragraph Sixty-Four of Plaintiff's First Amended Complaint.

65. Defendant William Hitchcock admits the stated location of the Fire Investigation Unit, but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph Sixty-Five of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

66. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Sixty-Six of

Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

67. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph Sixty-Seven of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

68. Defendant William Hitchcock denies the allegations contained in Paragraph Sixty-Eight of Plaintiff's First Amended Complaint.

69. Defendant William Hitchcock denies the allegations contained in Paragraph Sixty-Nine of Plaintiff's First Amended Complaint.

70. Defendant William Hitchcock admits that Green's telephone was unavailable to her on the dates indicated. Answering further, Defendant William Hitchcock denies the remaining allegations contained in Paragraph Seventy of Plaintiff's First Amended Complaint.

71. Defendant William Hitchcock admits that Green's telephone was unavailable to her on the dates indicated. Answering further, Defendant William Hitchcock denies the remaining

allegations contained in Paragraph Seventy-One of Plaintiff's First Amended Complaint.

72. Defendant William Hitchcock denies that it engages in business, but admits the remaining allegations contained in Paragraph Seventy-Two of Plaintiff's First Amended Complaint.

73. Defendant William Hitchcock denies that Green's location hampers her job performance. Answering further, Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph Seventy-Three of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

74. Defendant William Hitchcock denies the allegations contained in Paragraph Seventy-Four of Plaintiff's First Amended Complaint.

75. Defendant William Hitchcock denies the allegations contained in Paragraph Seventy-Five of Plaintiff's First Amended Complaint.

76. Defendant William Hitchcock denies the allegations contained in Paragraph Seventy-Six of Plaintiff's First Amended Complaint.

77. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Seventy-Seven of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

78. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Seventy-Eight of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

79. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Seventy-Nine of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

80. Defendant William Hitchcock without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Eighty of

Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

81. Defendant William Hitchcock denies the allegations contained in Paragraph Eighty-One of Plaintiff's First Amended Complaint.

82. Paragraph Eighty-Two of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Eighty-Two of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

83. Defendant William Hitchcock is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph Eighty-Three of Plaintiff's First Amended Complaint, and therefore neither admits nor denies said allegations.

84. Paragraph Eighty-Four of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Eighty-Four of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

85. Defendant William Hitchcock denies the allegations contained in Paragraph Eighty-Five of Plaintiff's First Amended Complaint.

CLAIMS

First Cause of Action

86. Defendant William Hitchcock incorporates and restates its answers to the preceding Paragraphs, One Through Eighty-Five.

87. Paragraph Eighty-Seven of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Eighty-Seven of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

88. Paragraph Eighty-Eight of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Eighty-Eight of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

89. Paragraph Eighty-Nine of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Eighty-Nine of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

Second Cause of Action

90. Defendant William Hitchcock does not answer the allegations contained in Paragraph Ninety of Plaintiff's First Amended Complaint because they are directed against another defendant, Defendant Boston Fire Department (Defendant City of Boston).

91. Defendant William Hitchcock does not answer the allegations contained in Paragraph Ninety-One of Plaintiff's First Amended Complaint because they are directed against another defendant, Defendant Boston Fire Department (Defendant City of Boston).

92. Defendant William Hitchcock does not answer the allegations contained in Paragraph Ninety-Two of Plaintiff's First Amended Complaint because they are directed against another defendant, Defendant Boston Fire Department (Defendant City of Boston).

Third Cause of Action

93. Defendant William Hitchcock incorporates and restates its answers to the preceding Paragraphs, One Through Ninety-Three.

94. Paragraph Ninety-Four of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Ninety-Four of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

95.Paragraph Ninety-Five of Plaintiff's First Amended

Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Ninety-Five of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

96.Paragraph Ninety-Six of Plaintiff's First Amended Complaint

states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Ninety-Six of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

97.Paragraph Ninety-Seven of Plaintiff's First Amended

Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph Ninety-Seven of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

Fourth Cause of Action

98-99. Defendant William Hitchcock does not answer the Fourth Cause of Action because it has been dismissed by Order of the Court.

Fifth Cause of Action

100-104. Defendant William Hitchcock does not answer the Fifth Cause of Action because it has been dismissed by Order of the Court.

Sixth Cause of Action

105-108. Defendant William Hitchcock does not answer the Sixth Cause of Action because it has been dismissed by Order of the Court.

Seventh Cause of Action

109. Defendant William Hitchcock incorporates and restates its answers to the preceding Paragraphs, One Through One Through Hundred and Nine.

110. Paragraph One Hundred and Ten of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Ten of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

111. Paragraph One Hundred and Eleven of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Eleven of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

112. Paragraph One Hundred and Twelve of Plaintiff's First

Amended Complaint states a legal conclusion, and as such does not states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Twelve of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

Eighth Cause of Action

113. Defendant William Hitchcock incorporates and restates its answers to the preceding Paragraphs, One Through One Through Hundred and Twelve.
114. Paragraph One Hundred and Fourteen of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Fourteen of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.
115. Paragraph One Hundred and Fifteen of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Fifteen of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.
116. Paragraph One Hundred and Sixteen of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph

One Hundred and Sixteen of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

117. Paragraph One Hundred and Seventeen of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Seventeen of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

118. Paragraph One Hundred and Eighteen of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Eighteen of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

Ninth Cause of Action

119. Defendant William Hitchcock incorporates and restates its answers to the preceding Paragraphs, One Through One Through One Hundred and Eighteen.

120. Paragraph One Hundred and Twenty of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Twenty of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

121. Paragraph One Hundred and Twenty-One of Plaintiff's First Amended Complaint states a legal conclusion, and as such does not require an answer. To the extent that Paragraph One Hundred and Twenty-One of Plaintiff's First Amended Complaint states any claim against Defendant William Hitchcock, it is denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The First Amended Complaint fails to state a claim against Defendant William Hitchcock upon which relief may be granted.

Second Affirmative Defense

Defendant William Hitchcock states that there is no factual connection between any unconstitutional municipal custom, policy or practice and any alleged violation of the Plaintiffs' constitutional rights.

Third Affirmative Defense

Defendant William Hitchcock states that at all relevant times, he acted in good faith and in accord with the Constitutions and laws of the United States and of the Commonwealth of Massachusetts.

Fourth Affirmative Defense

Defendant William Hitchcock states that the Plaintiffs have not been deprived of any rights secured by either the

Constitutions or the laws of the United States, or of the Commonwealth of Massachusetts.

Fifth Affirmative Defense

Defendant William Hitchcock states that the injury or damage alleged in Plaintiffs' Complaint was neither caused nor proximately caused by Defendant William Hitchcock.

Sixth Affirmative Defense

Defendant William Hitchcock states that the Plaintiffs, by their own acts, omissions, conduct and activities are estopped from asserting any claims against Defendant William Hitchcock.

Seventh Affirmative Defense

Defendant William Hitchcock states that no speech of Plaintiff Green was protected as relating to a matter of public concern.

Eighth Affirmative Defense

Defendant William Hitchcock states that the First Amended Complaint fails to state a claim entitling the Plaintiffs to relief because he is entitled to qualified immunity.

JURY CLAIM

Defendant, William Hitchcock, demands a trial by jury on all claims.

CERTIFICATE OF SERVICE

I hereby certify that on this day
a true copy of the above document
was served upon the plaintiff by
mail/by hand/by fax.

11/2/05 /s/ Helen G. Litsas

Respectfully submitted,
DEFENDANT, WILLIAM HITCHCOCK
Merita A. Hopkins
Corporation Counsel
By its attorneys:

/s/ Helen G. Litsas

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